

Deposition of Carolyn Freeman

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

IN RE:

JON CHRISTOPHER EVANS Case No. 09-03763-NPO
AND JOINTLY ADMINISTERED
RELATED CASES

DEBTORS. Chapter 7

G&B INVESTMENTS, INC. PLAINTIFF

V. ADV. PROC. NO. 10-00040-NPO

DEREK A. HENDERSON, TRUSTEE
FOR THE BANKRUPTCY ESTATE OF
JON CHRISTOPHER EVANS, ET AL. DEFENDANTS

DEPOSITION OF CAROLYN WILLIAMS
Taken at the offices of
Adams and Reese,
111 Capitol Street, Suite 350,
Jackson, Mississippi,
on Thursday, November 18, 2010,
beginning at approximately 9:20 a.m.

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1 "Valley" or "Mississippi Valley," or I may just
2 say "MVT." May we have the agreement that if I do
3 that, then you understand that I'm talking about
4 your employer?

5 A. Yes.

6 Q. Okay. Thank you.

7 Could you tell me what your current
8 employment position is with MVT?

9 A. I'm vice president, senior
10 underwriter.

11 Q. All right. How long have you held
12 that position?

13 A. I'm not sure of the exact. . .

14 Q. It wasn't last week, was it?

15 A. No.

16 Q. All right. Let's do this. Let me
17 start with your educational history. I want to
18 know where you grew up, where you went to school,
19 how far you went in school, and then I'll talk to
20 you about your employment background.

21 A. Okay.

22 Q. All right. Go ahead, tell me where
23 you grew up.

24 A. I graduated from Union High School.

25 Q. In Union, Mississippi?

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1 Q. Okay. If it doesn't disclose any
2 issues about estates, if it doesn't disclose any
3 deceased persons, and it just says fee simple
4 titles in Company XYZ, what kind of underwriting
5 can you do on something like that? Just curious.

6 A. If the attorney has certified it,
7 then it is what it is.

8 Q. Okay. So if he certifies it, and
9 there's nothing on the application that gives you
10 a reason to want to review it, then there's
11 nothing to review, you're relying on his
12 certification?

13 A. Right.

14 Q. Okay. Are you employed in any way by
15 Old Republic?

16 A. It's a joint company.

17 Q. Okay. What do you mean by that when
18 you say "joint company"?

19 A. Mississippi Valley/Old Republic.

20 Q. Okay. Who -- when you get a
21 paycheck, what name is on the paycheck other than
22 yours? Who -- in other words, does it say
23 Mississippi Valley Title, at the top, is paying
24 you, or does it say Mississippi Valley and Old
25 Republic on your paycheck?

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1 Gulf States Directory?

2 A. No.

3 Q. Never heard of that?

4 A. I know that they do the Yellow Books.

5 Q. Did you know he had family members in
6 town?

7 A. No.

8 Q. Did you know he had a brother named
9 Chris or Jon C. Evans?

10 A. He never -- he never told me about
11 him.

12 Q. Okay. Did you have knowledge,
13 independent of what Charles may have told you,
14 that he had a brother out there named Chris Evans
15 or Jon C. Evans?

16 A. I didn't -- I didn't know his family.

17 Q. Okay. There's some loans that I've
18 seen that involve a guy named Jon C. Evans. Were
19 you aware, generally, that Valley was issuing
20 commitments and/or policies on transactions that
21 involved a guy named Jon C. Evans?

22 MR. JONES: Object to form.

23 THE WITNESS: I don't recall him.

24 MR. LISTON, CONTINUED:

25 Q. Okay. Would you talk to Charles on

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1 the phone -- Charles Evans on the phone
2 frequently, or most of the time did he just appear
3 at the office, and that's where you saw him?

4 A. I have talked to him on the phone.

5 Q. Okay. Would you engage in e-mails
6 with him back and forth from time to time?

7 A. I don't recall.

8 Q. Okay. As -- was Charles Evans an
9 agent of Valley or an approved attorney for Valley
10 as you understand those terms?

11 A. He was an approved attorney.

12 Q. Okay. And you mentioned he was on
13 the -- an approved attorney list?

14 A. Uh-huh (affirmative response).

15 Q. Right? Is a copy of that list
16 maintained at your office -- in your department?

17 A. Yeah, I've got a list.

18 Q. Okay. At any given time, you can
19 figure out who the approved attorneys are?

20 A. Yes.

21 Q. And that would be important to you,
22 wouldn't it?

23 A. Yes, it would.

24 Q. Because approved attorneys are
25 allowed to certify title to the company? Is that

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1 commitment gets issued depends entirely on what
2 your department does?

3 A. Right.

4 Q. What kinds of acts do you believe the
5 approved attorney is authorized to perform on
6 behalf of Valley?

7 MR. JONES: Object to form.

8 THE WITNESS: He's not -- now,
9 rephrase the question.

10 MR. LISTON, CONTINUED:

11 Q. Sure. The approved attorney submits
12 the application to Valley for issuance of a
13 commitment or policy, right?

14 A. He submits it, yeah.

15 Q. On that -- and he's authorized to do
16 that, right? Valley --

17 A. What do you mean by "authorized"?

18 Q. Well, Valley allows the approved
19 attorneys to submit those applications?

20 A. He's an approved attorney of
21 Mississippi Valley.

22 Q. Well, I understand, but that's not my
23 question to you. Okay. Valley allows approved
24 attorneys to submit applications to Valley, right?

25 A. Uh-huh (affirmative response).

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1 A. Not required.

2 Q. Okay. But if you have a question,
3 you can ask someone, like --

4 A. Yes.

5 Q. -- legal counsel? Right?

6 A. Yes.

7 Q. Okay. And then if you issue a
8 commitment or a policy, you would send it, then,
9 to whom? The approved attorney?

10 A. It could go back to the approved
11 attorney.

12 Q. Okay. Do you send the commitments
13 and policies to the insurers?

14 A. Only if I'm requested.

15 Q. Okay. So typically, it goes back to
16 the approved attorney?

17 A. Right.

18 Q. Do you send the approved attorney a
19 letter requesting that the approved attorney
20 collect whatever fee Valley has for either the
21 commitment or the policy?

22 A. Yes.

23 Q. So as far as you know, the insured is
24 not billed directly by the company?

25 MR. JONES: Object to form.

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1 Q. Okay. And if you're sending the
2 policy and the commitments to the approved
3 attorney, then do you expect the approved attorney
4 will be the one to deliver those to the insureds?

5 A. He's the one that's requesting it for
6 them, yes.

7 Q. Okay. So -- but you don't do it. If
8 you send it to him, you expect that he'll be the
9 one to --

10 A. Right.

11 Q. -- deliver it, correct?

12 A. Right.

13 Q. Now, for all those things that I
14 mentioned -- the approved attorney submits the
15 application, you assume he's done title work, you
16 send him the commitments and policies, he's the
17 one that's supposed to pay Valley, he gets billed
18 for these things, you think that he'll deliver the
19 policies to the insureds -- for all those things,
20 those are things that Valley, to your knowledge,
21 and you and your department, allow the approved
22 attorney to do, correct?

23 MR. JONES: Object to form.

24 MR. LISTON, CONTINUED:

25 Q. I mean, that's just typical ordinary

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1 business?

2 MR. JONES: Object to form.

3 MR. LISTON, CONTINUED:

4 Q. Nothing out of the ordinary, is it?

5 A. I mean, I don't do the company rules

6 or --

7 Q. I'm not asking that.

8 A. -- setting it up --

9 Q. I'm not asking that.

10 A. -- of what we do.

11 Q. As far as you know, based on your
12 experience, Valley doesn't have a problem with the
13 approved attorney doing any of those things we
14 talked about, does it?

15 MR. JONES: Object to form.

16 THE WITNESS: That would be outside
17 the scope of what I do.

18 MR. LISTON, CONTINUED:

19 Q. I'm not asking whether you make
20 rules. I'm asking your experi- -- about your
21 experience. In your experience, those kinds of
22 things we discussed that you said, yeah, the
23 approved attorney does those things, are things
24 that happen all the time at Valley, correct?

25 MR. JONES: Same objection.

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1 MR. LISTON, CONTINUED:

2 Q. I'm not trying to trick you. I'm
3 just trying to ask.

4 A. What are you asking me?

5 Q. I'm asking you, all the things you've
6 indicated the approved attorneys have done and do,
7 in your experience, are things that are typical in
8 the ordinary course of business in Valley, aren't
9 they?

10 MR. JONES: Object to form.

11 THE WITNESS: They can certify titles
12 to us.

13 MR. LISTON, CONTINUED:

14 Q. Sure. And you send them the -- you
15 send them the commitments and policies, right?

16 A. If they ask for them to come back to
17 them.

18 Q. Sure. And nobody at Valley has ever
19 told you, you couldn't do that, have they?

20 A. I'm not sure. No.

21 Q. Well, you do it, right?

22 A. Yeah.

23 Q. You don't think you're violating the
24 rules, do you?

25 A. No.

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1 Q. Okay. Well, you do that on a
2 frequent basis, don't you?

3 A. Yes.

4 Q. I mean, they collect the premiums,
5 send them in to Valley, don't they?

6 A. Yes.

7 Q. Okay. Valley bills them for the
8 premiums, right?

9 A. (Nods head affirmatively.)

10 Q. I mean, these are things that happen
11 all the time, don't they?

12 A. Yeah, we bill the customer, whoever,
13 you know.

14 Q. Okay. If you're requested to?

15 A. Right.

16 Q. Okay. I'm just asking you, as far as
17 you know, because you've worked in the
18 underwriting department with Valley for over ten
19 years, is there anything unusual or wrong about
20 the kinds of things that the approved attorneys do
21 or are allowed to do that -- or do they violate
22 some rule of Valley I don't know about?

23 MR. JONES: Object to form.

24 MR. LISTON, CONTINUED:

25 Q. As far as you know, you're doing your

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1 job within the rules, right?

2 A. As far as I know.

3 Q. Okay. Does anybody, to your
4 knowledge, supervise in any way the approved
5 attorneys?

6 MR. JONES: Object to form.

7 MR. LISTON, CONTINUED:

8 Q. Have you ever --

9 A. I'm not sure.

10 Q. -- heard that?

11 A. It wouldn't be my department.

12 Q. Okay. I understand -- and this may
13 not be your department -- that sometimes agents of
14 the company that are outside the home office are
15 audited. Would that be escrow doing that?

16 A. I'm not sure who does that.

17 Q. Okay. To your knowledge, are there
18 any audits that are ever conducted of approved
19 attorneys?

20 A. I'm not -- I mean, that's not my
21 department.

22 Q. That's fine. If you don't know,
23 fine. Now, you -- look, I'm probably not going to
24 get another chance to ask you questions, so, in
25 fairness, I want to ask you everything I can think

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1 of. All right? Just bear with me. If you don't
2 know, you don't know.

3 Were you -- have you ever been aware
4 of whether Valley had any procedure or system in
5 place to supervise approved attorneys and see if
6 their methods for certifying title meet Valley's
7 approval?

8 MR. JONES: Object to form.

9 THE WITNESS: That's outside the
10 scope of my. . .

11 MR. LISTON, CONTINUED:

12 Q. Sure. But you've never heard of
13 anything like that, have you?

14 A. I mean, I don't know.

15 Q. No, no. Do you -- have you ever
16 heard of anything like that at Valley? I'm not
17 asking you to speak on behalf of the company. I'm
18 asking you, have you ever heard that Valley had
19 any system in place, procedure in place, to
20 supervise the approved attorneys?

21 A. It's -- you know, that's not -- I
22 don't do that, so I don't know what they do.

23 Q. Okay.

24 A. Okay.

25 Q. You've never heard about it?

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1 A. Right.

2 Q. That's what I'm trying to find out.

3 You may not know the answers to some
4 of these questions, Ms. Freeman, but again, I'm
5 going to have to ask you. Are the approved
6 attorneys allowed to advertise to the public that
7 they are, in fact, approved attorneys for Valley?

8 A. I don't know.

9 Q. You don't know what they're allowed
10 to do in that regard?

11 A. No.

12 Q. Do you guys at Valley send out
13 certificates or notices or anything they can put
14 up in their offices that say: You're an approved
15 attorney?

16 A. I don't know.

17 Q. Is there anything that you've ever
18 seen at Valley that is in writing that would be
19 sent to the approved attorney or sent to a bank or
20 a lender or anybody else that says approved
21 attorneys are only allowed to do certain acts, and
22 here they are?

23 MR. JONES: Object to form.

24 MR. LISTON, CONTINUED:

25 Q. Have you ever seen anything like

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1 Q. You would confer with the approved
2 attorney?

3 A. (Nods head affirmatively.)

4 Q. Right?

5 A. I would just issue it.

6 Q. They can take it or leave it,
7 couldn't they?

8 Well, I don't know of circumstances
9 that have arisen in your experience, but I imagine
10 that somewhere along the line, some information
11 needed to flow from your department to the insured
12 or you had questions that the insured needed to
13 answer for your department to make decisions. Is
14 that fair? Has that ever happened?

15 A. Not as to whether we would insure or
16 not insure.

17 Q. Okay. Well, in the event you ever
18 needed to communicate with an insured or get
19 information from the insured, and you had an
20 approved attorney in there, would you go through
21 the approved attorney to do that?

22 A. I would rely on getting the
23 information from him.

24 Q. Okay. Do you know how the binder
25 fees are determined?

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1 Q. All right. Look at 1.3, please,
2 ma'am. It's on page Bates No. 253b. I think it's
3 1-3 at the bottom. Would you agree with me --
4 I'll just ask the question and -- without having
5 to go through it. Would you agree with me it's
6 just crucially important that the approved
7 attorney's title certification to Valley be
8 accurate?

9 A. Well, we're relying on him --

10 Q. Right.

11 A. -- for accuracy.

12 Q. I mean, you don't go behind him and
13 do title work, do you?

14 A. No.

15 Q. So you're taking his word for it
16 about who owns that title at the time he submits
17 those documents to you, correct?

18 A. Right.

19 Q. Okay. Has Valley ever, to your
20 knowledge, gone behind the approved attorney's
21 certification of title to try to determine whether
22 or not that certification was, in fact, accurate?

23 MR. JONES: Object to form.

24 THE WITNESS: I'm not sure.

25 MR. LISTON, CONTINUED:

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1 Q. You're not aware of any instances?

2 A. I'm not aware of it.

3 Q. Okay. Has there ever been any system
4 or program in place at Valley to, for lack of
5 better words, check up on approved attorneys from
6 time to time by taking the certifications that --
7 in some random sampling and doing title research
8 to see if the certifications had been accurate?

9 A. I'm not aware of it.

10 Q. Okay. Look at page Bates No. 254,
11 please, ma'am. At the very bottom, there's
12 something down there in bold that says, "Do not
13 accept a certificate of title from an attorney
14 that has any financial interest in the property
15 being certified." Okay. Has that always been
16 Valley's policy, to your knowledge?

17 A. To my knowledge.

18 Q. Okay. Is there a policy at Valley
19 about accepting certificates of title from
20 attorneys who have relatives that have a financial
21 interest in a transaction?

22 MR. JONES: Object to form. She's
23 not here to testify -- she can testify as to her
24 own knowledge, but as far --

25 MR. LISTON: That's what I'm asking.

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1 THE WITNESS: Not that I know of.

2 MR. LISTON, CONTINUED:

3 Q. Do you know of any?

4 A. I don't know. Not to my knowledge.

5 Q. Even if it's not in writing, have you
6 ever been aware that Valley discourages approved
7 attorneys from working on matters where their
8 relatives -- could be their mother, father,
9 sister, brother -- have some financial interest in
10 the property transaction?

11 A. I'm not aware.

12 Q. No one's ever said that to you --

13 A. No.

14 Q. -- that you know of?

15 A. That I recall.

16 Q. Okay. Have you ever had an occasion
17 to invoke this policy because you found out an
18 approved attorney had some interest in the
19 property that was the subject of the transaction?

20 A. I've had attorneys try to certify to
21 their own title.

22 Q. Okay. That would qualify, wouldn't
23 it? What about partners in law firms, have you
24 ever had attorneys in the same law firm try to
25 certify the other's title?

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1 A. Not that I'm aware of.

2 Q. Would that be a no-no, or is that
3 okay?

4 MR. JONES: Again, to her knowledge.

5 THE WITNESS: I don't know.

6 MR. LISTON, CONTINUED:

7 Q. To your knowledge. That's all I'm
8 asking about today, is your knowledge.

9 A. I don't know.

10 Q. I guess the reason for the rule here
11 is that you don't want an attorney who's got a
12 financial interest in the property doing his own
13 title work because he might have some incentive
14 not to do it accurately. Would you agree with
15 that?

16 A. Well, you wouldn't want him
17 certifying to his own, no.

18 Q. Right. What steps, to your
19 knowledge, does Valley take to inquire of approved
20 attorneys whether or not they're doing things
21 which might violate this rule?

22 A. I'm not involved in. . .

23 Q. Does the approved attorney
24 communicate with any department other than yours
25 before the title insurance policy is issued, to

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1 your knowledge?

2 A. To my knowledge, no.

3 Q. Okay. Have you ever made any
4 inquiries of approved attorneys whether they had a
5 financial interest in a transaction?

6 A. Not to my knowledge.

7 Q. Okay. To your knowledge, are
8 approved attorneys sent this rule that they cannot
9 certify title where they have a financial interest
10 in the property?

11 A. I'm not sure what they're privileged
12 to.

13 Q. Is there any system or procedure in
14 place, that you know about, where inquiry is made
15 of approved attorneys to rule out them having
16 financial interests in a transaction or to at
17 least make them certify somewhere and say: I am
18 not interested in this transaction? Anything like
19 that?

20 A. I'm not aware of it.

21 Q. Is it fair to say that as the senior
22 underwriter, you have never been informed of
23 anything that Valley does to make sure this rule
24 is followed?

25 MR. JONES: Object to form.

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1 A. What do you mean by similar name?

2 Q. Let's say there's two brothers out
3 there called Evans, and one Evans is certifying
4 title for another Evans. Do you think you'd pick
5 that up and ask questions about it?

6 A. I'm not sure.

7 Q. Okay. Would you at least -- if you
8 saw that, that one Evans is certifying title for
9 another Evans, would you at least inquire of the
10 approved attorney who that other Evans was?

11 A. I'm not sure.

12 Q. Okay. Have you ever had an occasion
13 to do that, that you know of?

14 A. Not that I recall.

15 Q. Not just with anybody named Evans.
16 Could be anybody named Smith, or any similar
17 names. Ever had an occasion?

18 A. Not that I recall.

19 Q. How would you know if -- that an
20 attorney has got an interest in the transaction if
21 instead of the title being in the attorney's name,
22 it's in a name of a company that the attorney
23 owns?

24 MR. JONES: Object to form.

25 MR. LISTON, CONTINUED:

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1 Q. Would you be able to pick that up?

2 A. Not from the application.

3 Q. Okay. But if there was some --
4 something on these applications that made that
5 attorney indicate whether he did or did not have
6 an interest in the land, either directly or
7 indirectly, then that would -- you'd know it from
8 that, wouldn't you?

9 A. If it -- if he. . .

10 MR. JONES: Object to the form of
11 that question, too. I'm sorry.

12 MR. LISTON, CONTINUED:

13 Q. I mean, I know there's nothing like
14 that on the application. Right?

15 A. Right.

16 Q. But if there was an affirmative
17 question to the attorney -- approved attorney on
18 the apps that he has to certify whether he does or
19 does not have some interest in the land, then that
20 would be one way of checking this, right?

21 A. If he's a crook, he's not going to
22 tell you.

23 Q. That may be a good point. May be a
24 good point. But at least you would have made the
25 inquiry, right?

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1 A. Yeah.

2 Q. Okay. Would you look at the page
3 Bates No. 258, please, ma'am. At the bottom, it's
4 marked page 2-1, and the page I have says at the
5 top, The Application and Attorney's First
6 Certificate. Do you see that?

7 A. Uh-huh (affirmative response).

8 Q. Okay. I'm going to read this, and
9 just tell me if I read it correctly. "This form
10 is designed for use in those circumstances where
11 it is contemplated that a commitment will be
12 required. The form is completed by an approved
13 attorney of the company, and a commitment to
14 insure is issued with certain exceptions and under
15 certain conditions. This enables the insured to
16 proceed with disbursement of his funds with
17 assurances as to the quality of title he is
18 obtaining." Did I read that correctly?

19 A. Yes.

20 Q. Okay. Now, do you disagree -- you're
21 a senior underwriter. You issue these documents.
22 Do you disagree that the commitment assures an
23 insured that he can go ahead and proceed with
24 disbursement of funds because he's been informed
25 about the quality of the title?

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1 MR. JONES: Object to form.

2 Commitment itself is the best evidence.

3 THE WITNESS: He would have to
4 satisfy the conditions and stipulations.

5 MR. LISTON, CONTINUED:

6 Q. Well, I understand that. And I think
7 I've told you earlier I'm not challenging that.
8 Right? But I'm just asking you my question right
9 now.

10 A. And what is your question?

11 Q. My question is: This sentence says
12 the commitment "enables the insured to proceed
13 with disbursement of his funds with assurances as
14 to the quality of title he is obtaining." Do you
15 disagree with that?

16 A. Not to my knowledge.

17 Q. Okay. And this is the form -- I'm
18 sorry, Bates No. page 260. This is the form, at
19 least in this manual, for the application of
20 attorney's first certificate, correct?

21 A. Yes, sir.

22 Q. And is this the form that you're
23 familiar with, I mean, that you still use?

24 A. It's not the current application.

25 Q. Okay. Is it one that has been used?

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1 A. Yes.

2 Q. All right. Right at the top, the
3 first couple of blank lines, it identifies what
4 about the fee simple ownership?

5 A. It's vested in.

6 Q. Who it's vested in, correct?

7 A. Uh-huh (affirmative response).

8 Q. And that's the first thing you
9 require the attorneys to tell you as -- in the
10 underwriting department, right?

11 MR. JONES: Object.

12 THE WITNESS: That's the first
13 question asked on the application, yes.

14 MR. LISTON, CONTINUED:

15 Q. Right. And you take that information
16 and you put that on the schedule that goes with
17 the commitment, correct?

18 A. Yes.

19 Q. Okay. And you accept that from an
20 approved attorney without question?

21 A. He certified it.

22 Q. Right. And you don't go behind him
23 in your department to try to figure out whether or
24 not that's accurate or inaccurate, do you?

25 A. No. He's certifying the title.

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1 paragraph.

2 A. (Reviews document.) Oh, you're
3 talking about up here?

4 Q. Second paragraph, second line. It
5 talks about "for a valuable consideration." Do
6 you see that?

7 A. Uh-huh (affirmative response). Yes,
8 I do.

9 Q. To your knowledge, is that talking
10 about the fee for the commitment, the binder fee?

11 A. I'm not sure.

12 Q. Okay. Now, you signed this
13 commitment, as I understand it. Does that --

14 A. Yes.

15 Q. -- mean that you underwrote it before
16 you issued it?

17 A. Certainly.

18 Q. Okay. Tell me what underwriting you
19 did on this before issuing this commitment.

20 A. I reviewed the commitment -- the
21 application and -- well, I may not have personally
22 entered this one. I don't know if I did or
23 didn't. Okay?

24 Q. You mean drafted the schedules?

25 A. Exactly.

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1 Q. Okay.

2 A. But I would have reviewed the
3 commitment against the title work.

4 Q. I understand.

5 A. Before I signed it.

6 Q. Okay. All right.

7 A. And then I would have delivered it.

8 Q. Okay. And is it fair to say that
9 when you did that, you didn't find anything that
10 caused you any concern?

11 A. I just took it from his certificate.

12 Q. Okay. And as we've talked about
13 already, but now we're talking about this specific
14 document, neither you nor anyone with Valley,
15 to your knowledge, undertook to check behind
16 Charles Evans' certificate to see if his
17 certificate was, in fact, accurate?

18 MR. JONES: Object to form.

19 THE WITNESS: Not to my knowledge.

20 MR. LISTON, CONTINUED:

21 Q. Okay. Let's look at the schedule,
22 please, ma'am, Schedule A. Do you -- do you know,
23 as you sit here today, whether you prepared this
24 schedule or whether somebody else prepared it?

25 A. I'm not sure.

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1 2008, to 8:00 a.m., right?

2 A. Right.

3 Q. Okay. And then he's got the exhibits
4 that -- A and B to it, which is something, isn't
5 it, that Valley would have reviewed when it came
6 in, to make use --

7 A. The legal --

8 Q. -- use of that information on its
9 documents, right?

10 A. The legal and the exceptions.

11 Q. Okay.

12 COURT REPORTER: I'm sorry, what was
13 the. . .

14 THE WITNESS: The exceptions -- the
15 legal and the exceptions.

16 COURT REPORTER: Thank you.

17 (EXHIBIT NO. 9 WAS MARKED FOR THE RECORD.)

18 MR. LISTON, CONTINUED:

19 Q. Here's Exhibit 9, please, ma'am.
20 Here is my question to you. Is this a true and
21 correct and complete copy of the title commitment
22 issued by Valley for the 2008 White Oaks loan?

23 MR. JONES: It doesn't have the
24 actual cover page.

25 MR. LISTON: Yeah, with the exception

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1 of that. Maybe I missed pulling that.

2 MR. JONES: Hang on a second. Maybe
3 I can help you out here.

4 MR. LISTON, CONTINUED:

5 Q. Other than the cover page, does it
6 appear to be a complete copy?

7 MR. JONES: We'll stipulate the cover
8 page on 7 would be the same as it is on --

9 MR. LISTON: That's fine. It doesn't
10 have any real substantive stuff on it, though.

11 THE WITNESS: It appears to be.

12 MR. LISTON, CONTINUED:

13 Q. All right. Thank you, ma'am.

14 And, again, Valley would have issued
15 this commitment after receiving an application of
16 attorney's first certificate, correct?

17 A. Yes.

18 Q. You signed it, which means you issued
19 the commitment?

20 A. No.

21 Q. Okay.

22 A. It doesn't mean that I actually
23 drafted it.

24 Q. Well, I guess I'm not really asking
25 about who drafted Schedule A or B, but I'm asking

Deposition of Carolyn Freeman

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1 about who issued it on behalf of Valley. Was it
2 you, because you signed the bottom of it?

3 MR. JONES: Object to form.

4 You can answer, to the extent you
5 know.

6 MR. LISTON, CONTINUED:

7 Q. Isn't that your signature at the
8 bottom of the page 1?

9 A. Yeah, it's my signature.

10 Q. What does that mean you did, then?

11 A. Means I reviewed the commitment.

12 Q. Okay. Did your --

13 A. But it doesn't mean that I prepared
14 it also.

15 Q. Well, I'm not asking that question
16 yet. But by the fact that you signed it, does
17 that mean now the company's issuing the
18 commitment?

19 A. It was issued and delivered, yes.

20 Q. Okay. Now, did you underwrite it
21 before you signed it?

22 A. I would have reviewed the
23 certificate.

24 Q. Okay. Would you have reviewed the
25 schedules after they were prepared?

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1 White Oaks loan. Do you remember looking at the
2 commitment for this?

3 A. I think so.

4 Q. Had a legal description in Schedule
5 A, didn't it?

6 A. Yes.

7 Q. Okay. Does anybody in underwriting
8 or at Valley look at the legal description that's
9 been given, or on the commitment, and then compare
10 that to the legal description that's given in the
11 attorney's final certificate to make sure they're
12 the same, dealing with the same piece of property?

13 A. We don't proof them word for word.

14 Q. Well, I understand that. But do you
15 generally look at it and say: Yeah, that looks
16 like the same tract of land that we issued the
17 commitment on?

18 A. Right. Right.

19 Q. That's all I'm trying to find out.

20 A. Yeah.

21 Q. Okay. So -- and to do that, you'd
22 have to review these exhibits, wouldn't you?

23 A. Yeah.

24 MR. JONES, CONTINUED:

25 Q. Okay. Now, look at Exhibit A,

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1 on the same page that they have to look at, isn't
2 it? Whoever looks at it.

3 A. It's on that page, but they wouldn't
4 be reviewing it for names on it. They would be
5 reviewing it for legal description.

6 Q. Okay. Is there any effort that, to
7 your knowledge, Valley ever undertook to figure
8 out the identity of people who have ownerships in
9 companies or limited liability companies that were
10 involved in these insurance policies?

11 MR. JONES: Object to form.

12 THE WITNESS: Not that I'm aware of.

13 MR. LISTON, CONTINUED:

14 Q. Do you know how you do that?

15 A. I don't, no.

16 Q. Have you ever gotten on the internet
17 and gone to the Mississippi Secretary of State's
18 website and looked up a company?

19 A. No, I haven't.

20 Q. Okay. Is Valley -- anyone from
21 Valley ever told you that needed to be done or
22 suggested it should be done to figure out who are
23 the people who really have an interest in these
24 financial transactions?

25 MR. JONES: Object to form.

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1 doesn't have an interest in these properties by
2 virtue of the fact that his brother has promised
3 him something?

4 A. I don't know.

5 Q. No way of knowing, do you?

6 A. (Shakes head negatively.)

7 Q. Weren't Valley's procedures to
8 determine these things insufficient if they can't
9 even cover these kind of items?

10 MR. JONES: Object to form.

11 THE WITNESS: That's outside the
12 scope of what I do.

13 MR. LISTON, CONTINUED:

14 Q. Well, you don't make the rules, I
15 know that.

16 A. Right.

17 Q. But you know there's a rule that says
18 an attorney is not supposed to have a financial
19 interest in the transaction your company is
20 issuing insurance on?

21 A. Right.

22 Q. Okay. And I asked you what the
23 company does to figure that out, and I think you
24 told me, essentially, nothing that you know of.
25 Correct?

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1 A. I mean, I wouldn't be involved in
2 what they do.

3 Q. Okay. But you don't know of any
4 procedure, do you, as the underwriter, that the
5 company has ever tried or attempted to figure out
6 who are the people that really own interest in
7 transactions in which the company is issuing
8 insurance?

9 MR. JONES: Object to form.

10 THE WITNESS: I'm not --

11 MR. LISTON, CONTINUED:

12 Q. If you do, I want to know about it.

13 A. I'm not aware.

14 Q. Take a look at this piece of paper,
15 ma'am. I'll mark it.

16 (EXHIBIT NO. 13 WAS MARKED FOR THE RECORD.)

17 MR. LISTON, CONTINUED:

18 Q. It's Exhibit 13. What kind of
19 document is this, if you know?

20 A. Affidavit and agreement of the owner
21 and the contractor.

22 Q. Is this an older form of a document
23 that Valley used to use?

24 A. I don't know if it's been updated or
25 not.

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1 MR. JONES: Consider your source.

2 MR. LISTON: Actually quoted somebody
3 in the room. It wasn't me.

4 Let's go off the record for just a
5 minute.

6 (OFF THE RECORD.)

7 MR. LISTON, CONTINUED:

8 Q. Does Valley, in the underwriting
9 department or anywhere else within Valley, to your
10 knowledge, track property that's the subject of
11 its insurance policies by property description or
12 plat or any other means?

13 A. Not that I'm aware of.

14 Q. Okay. In other words, if you're
15 insuring the same piece of property multiple
16 times, how would Valley know that? Is there a way
17 to know that?

18 A. I'm not sure you could -- you can
19 research by owner.

20 Q. Okay. Well, if it's the same
21 description over and over, would that be something
22 that it would have to be picked up in the
23 underwriting department to be caught?

24 MR. JONES: Object to form.

25 THE WITNESS: Well, you can't

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1 research it by legal.

2 MR. LISTON, CONTINUED:

3 Q. Well, I don't understand your answer.
4 What do you mean?

5 A. There's no way to look up to see if
6 you have insured that before or not by the legal
7 description.

8 Q. There's no system in place to do
9 that?

10 A. Right.

11 Q. If you wanted to make an inquiry,
12 "Are we insuring the same piece of property for
13 different owners," there's no searchable method of
14 finding that?

15 A. Not that I'm aware of.

16 Q. Okay. Hence my question. In order
17 for Valley to catch something like that, it's got
18 to pick it up in underwriting when the
19 applications come in, does it not?

20 MR. JONES: Object to form.

21 MR. LISTON, CONTINUED:

22 Q. If it's not detected in underwriting
23 at that stage, it gets in Valley, and there's no
24 way to search it and determine it, is there?

25 MR. JONES: Object to form.

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1 Q. That's the only possible way, isn't
2 it?

3 MR. JONES: You're asking to her
4 knowledge?

5 MR. LISTON: Yeah.

6 THE WITNESS: As to my knowledge.

7 MR. LISTON, CONTINUED:

8 Q. Is there any other way you know of
9 that it could even possibly be caught by Valley?

10 A. Not that I'm aware of.

11 Q. Okay. Is there any method at Valley
12 that you're aware of in underwriting for trying to
13 detect whether documents that are being submitted
14 to Valley are fraudulent?

15 MR. JONES: Object to form.

16 THE WITNESS: What documents are you
17 speaking to?

18 MR. LISTON, CONTINUED:

19 Q. Applications and attorney
20 certifications.

21 A. We don't check behind them.

22 Q. Well, I know that. But I'm asking
23 you, is there any program in place that you've
24 ever been aware of that's, for lack of better
25 words, called fraud detection procedures?

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1 Q. I'm sorry?
2 A. They can fill in for you.
3 Q. And who fills in for you?
4 A. Morton Matrick.
5 Q. Anybody else?
6 A. Parrish Fortenberry.
7 Q. But generally, that's part of your
8 job description?
9 A. Yes.
10 Q. Sign the policy that's issued?
11 A. Yes.
12 Q. What do you do to determine whether
13 you can sign it or not?
14 A. I check the certificate submitted
15 with it.
16 Q. From the attorney?
17 A. From the attorney.
18 Q. So you take a look -- you put the
19 certificate in front of you, the --
20 A. Right.
21 Q. -- physical certificate, and you
22 compare it to what?
23 A. Well, I look at -- take the
24 information from the certificate.
25 Q. You type it? Who prepares the

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1 physical policy? Or in that -- in this instance,
2 who prepared that one?

3 A. It was prepared in the underwriting
4 department.

5 Q. So your department prepared that --

6 A. Yes.

7 Q. -- based upon what information?

8 A. The certificate that would have been
9 submitted with it.

10 Q. So you pulled everything from that
11 certificate?

12 A. Yes. The information comes from the
13 approved attorney's certificate of title.

14 Q. And is there any distinction between
15 how you treat an approved attorney and an agent as
16 far as --

17 A. I don't deal with agents.

18 Q. Is that your operating procedure, you
19 take the certificate of title, type it into the
20 policy?

21 A. You take the information from the --

22 Q. Yes, ma'am.

23 A. -- certificate, yes.

24 Q. Is the legal description retyped?

25 A. Sometimes it's retyped, sometimes

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1 it's e-mailed to us.

2 Q. But you take it, and do you proof it
3 as it -- after it comes in, how -- how do you
4 verify that the transition is accurate --

5 MR. CLARK: Object --

6 MR. RAWLINGS, CONTINUED:

7 Q. -- from the policy to the -- or from
8 the certificate to the policy?

9 MR. CLARK: Object to the form.

10 You can go ahead.

11 THE WITNESS: We take the legal from
12 the attorney's certificate and put it in the
13 policy.

14 MR. RAWLINGS, CONTINUED:

15 Q. But as you know, from your years of
16 experience, that's somewhat tedious at times with
17 the calls and descriptions. Do you do anything to
18 proof it for accuracy?

19 A. If we type the legal, we proof it.

20 Q. Against the certificate of title?

21 A. Yes.

22 Q. Do you look at any underlying
23 transactional documents? Or in this case, did
24 you, before you signed that?

25 A. Did I look at it?

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1 MR. CLARK: Object to the form.

2 MR. RAWLINGS, CONTINUED:

3 Q. By that, I mean any conveyance deeds,
4 any documents in the chain of title.

5 A. No. We don't go behind approved
6 attorneys.

7 Q. Have you ever?

8 A. I don't know if they have in the
9 past.

10 Q. All right. Other than reviewing a
11 certificate of title, translating -- or
12 transitioning it into the policy, what else did
13 you do to determine that you could sign that?

14 A. I proofed the information in the
15 policy against the information in the certificate.

16 Q. At that time --

17 A. At the date of it, filing date and
18 time.

19 Q. At that time in 2009, was that a --
20 the standard policy?

21 A. As far as I know, yes.

22 Q. Did you have different types of
23 policies -- policy forms?

24 A. Got long forms, short forms.

25 COURT REPORTER: I'm sorry?

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1 start with a V. Sometimes numbers mean something
2 and tell you something, and sometimes they're just
3 sequential.

4 A. It's just sequential.

5 Q. So there's no information about who
6 issues the policy or anything based on the number
7 or the type of policy?

8 A. No.

9 Q. But if you've got a binder number for
10 a transaction, you could look that up and see if
11 it was actually a binder issued or a commitment
12 issued?

13 A. Right.

14 MR. JONES: Object to form.

15 MR. CORY, CONTINUED:

16 Q. Is that right?

17 A. It would be in that file with the
18 policy, if it --

19 Q. And --

20 A. -- was one issued.

21 Q. I didn't mean to interrupt you. Let
22 me ask you this. When an application for a
23 commitment comes in, whether it be faxed or
24 mailed, however it comes in to the underwriting
25 department, do you actually set up a file?

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1 A. We open a file, yes.

2 Q. And the file is -- what's -- is the
3 file -- the V number or whatever number, is --

4 A. Yes.

5 Q. -- that how it's filed?

6 A. Yes.

7 Q. And that file -- once a policy is
8 issued, if a policy is issued, that goes in the
9 same file, or is there a separate file for the
10 policy?

11 A. No, it's all in one file.

12 Q. And would -- are there -- and you may
13 have already answered this. But if you issued a
14 policy, would there always be a commitment issued
15 when it's an approved attorney involved in the
16 transaction?

17 A. Not necessarily.

18 Q. Is there -- is that the normal way
19 that it's done, or the usual way, you get a
20 commitment first and then a policy?

21 A. It varies. Sometimes the
22 instrument's already recorded, and then that way
23 you bypass on the commitment and issue the policy.

24 Q. Now, William Smith -- do you know
25 William Smith?

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1 extent you're assuming a commitment is issued. I
2 mean, if a commitment is issued.

3 MR. CORY, CONTINUED:

4 Q. And subject to that, obviously
5 commitments may not always issue just --

6 A. Right.

7 Q. -- because they're requested.

8 Is -- when you issue a commitment,
9 are you also giving them the pricing information
10 at that time?

11 A. Yes.

12 Q. Are you -- is Valley paid anything
13 for the commitment?

14 A. Yes.

15 Q. And then are they paid again for the
16 policy itself?

17 A. It's on one statement.

18 Q. All right. Just help me so I
19 understand procedurally. You get the application
20 in for a commitment, say for a closing, I don't
21 know, two days from now, if not -- I mean, assume
22 it's not Saturday two days from now. Would you
23 turn around and send a -- do you get paid before
24 you issue the commitment?

25 A. No.

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1 Q. You get paid when the -- when the
2 closing occurs?

3 A. Yes.

4 Q. And you're paid in full at that
5 point?

6 MR. JONES: Object to form.

7 MR. CORY, CONTINUED:

8 Q. Let's talk generally. I'm not trying
9 to -- I just want to make sure I understand the
10 procedure. Mean, you get the -- if the closing --
11 if you issue a commitment and the closing occurs
12 tomorrow on the transaction, when do you -- when
13 does Valley normally get the money for the
14 commitment and title policy? Or is there a normal
15 time?

16 A. It varies.

17 Q. Is it -- is it usually within a day
18 or two after the closing, or is it --

19 A. Some send it the day after closing.
20 Some send it with the final. It just varies.

21 Q. Okay. So you may -- that's what I
22 was trying to get to. You may not get paid --
23 Valley may not get its money until the approved
24 attorney gets everything together and gets you the
25 final?

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1 A. Right.

2 Q. Are you notified when the closing --
3 or is underwriting notified when a closing occurs
4 on a commitment? I mean, do you actually know --

5 A. No, not usually.

6 MR. JONES: Object to form.

7 MR. CORY, CONTINUED:

8 Q. So when a commitment is issued, is
9 there a timeframe that it's good for?

10 A. Six months.

11 Q. So they -- the -- an approved
12 attorney has the ability to -- can rely on that
13 commitment for up to six months, and the pricing?

14 MR. JONES: Object to form.

15 MR. CORY, CONTINUED:

16 Q. Is that generally speaking?

17 MR. JONES: Again, the language of
18 the commitment itself would be the best evidence
19 there.

20 MR. CORY, CONTINUED:

21 Q. But as far as -- but -- well, yeah,
22 that's fine. I'll move on.

23 Does Valley have an underwriting
24 manual?

25 A. It's got an agent's manual.

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1 just generally speaking, in your mind?

2 MR. JONES: I'm going to object to
3 the compound question. There's some statements in
4 there, and then you made several comments that he
5 wrote policies, which she testified earlier he
6 didn't.

7 MR. CORY: Right.

8 MR. CORY, CONTINUED:

9 Q. Clarifying -- he's clarified my
10 question a little bit. I'm just -- of the
11 approved -- let me rephrase it.

12 Of the approved attorneys, do you
13 know who the ones that write -- not write -- who
14 are the ones that submit more applications and you
15 issue more binders and policies for, who are the
16 most frequent you deal with?

17 A. I don't -- I mean, you don't really
18 think about it, you know.

19 Q. Well, are there hundreds of people
20 you deal with, or is it 30 or 40 or 20? I'm just
21 trying to get a general idea of what you see --

22 A. I don't know the exact number. It
23 varies, you know.

24 Q. In a given month -- I mean, let's use
25 this month, November. Do you know how many

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1 commitments you've issued?

2 A. Not a total number, no.

3 Q. What's your -- just an estimate of
4 what you would issue?

5 A. I don't know what it would average
6 out to be.

7 Q. I mean, are we talking about --

8 A. Four or five, you know.

9 Q. Four or five so far this month?

10 A. Per day.

11 Q. Oh, okay. That's what I --

12 A. And that's a total guess.

13 Q. But on a -- on a monthly basis, what
14 would the range be for the last six months? Just
15 an estimate.

16 A. I don't have any idea.

17 Q. I mean, have you -- in the last 12
18 months, have you issued less than a hundred in a
19 given month? Commitments.

20 A. I don't know.

21 Q. Have you -- what's the most you've
22 issued?

23 A. I don't know that, either.

24 Q. Have you ever issued a thousand
25 commitments in a month?

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1 A. I doubt a thousand, but I don't know.

2 Q. Did you work a full day yesterday?

3 A. Yeah.

4 Q. How many did you issue yesterday?

5 A. I don't know.

6 Q. Two? three? four? five? six? ten?

7 A. I don't know. I didn't look at the
8 work list.

9 Q. So if -- when you go home and
10 somebody says, "How busy were you?" you just. . .

11 A. Well, all of my business -- business
12 is not policies and binders.

13 Q. Tell me what else you do besides
14 policies and binders, then.

15 A. Answer the phone.

16 Q. Answer the phone? Are you the
17 receptionist too, or. . .

18 A. With questions that people have.

19 Q. From insureds, from banks, from --
20 are you fielding questions from. . .

21 A. It varies. All different kinds of
22 people.

23 Q. Well, tell me what your -- what your
24 job description is.

25 A. I'm an underwriter and issue policies

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1 and binders.

2 Q. But you just told me that's not what
3 you do all day. So what's the rest of the day?

4 A. Well, if the phone rings, I answer
5 it.

6 Q. But you've got an extension, so
7 there's something that triggers them to give them
8 to you if -- do you take general calls?

9 A. A lot of them are general.

10 Q. Is there -- you can -- how would you
11 generate a report that showed how many commitments
12 you've issued and how many policies have been
13 issued out of the underwriting department in the
14 last couple of years?

15 A. I'd have go back through the work
16 list to get that number.

17 Q. On a -- on a day-to-day basis, what
18 percentage of your time is spent dealing with
19 underwriting issues for approved attorneys versus
20 these other calls?

21 A. 50 percent of the time, underwriting.

22 Q. Do you have a job description,
23 written job description?

24 A. Not that I know of.

25 Q. Do you get annual or quarterly or

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1 A. Right.

2 Q. And there's no -- there's not --
3 outside of the underwriting department, on a -- on
4 a typical basis, there's no one else in the
5 organization of Mississippi Valley that would be
6 involved in the issuance of a commitment for an
7 approved attorney, normally?

8 A. Normally.

9 Q. And the same thing, as far as you
10 know, when the -- when the underwriting department --
11 we're looking at Exhibit 10 -- issues a policy, an
12 owner's or a lender's policy, the countersigning
13 by you or someone in underwriting or someone when
14 you're not there, that's the last step?

15 A. Yes.

16 Q. And normally, nobody else other than
17 underwriting is looking when it's an approved
18 attorney?

19 A. Right.

20 Q. Now, you mentioned earlier that you
21 keep notes or kind of a work list -- I don't want
22 to put words in your mouth -- but on a legal pad?

23 A. Uh-huh (affirmative response).

24 Q. You have to say yes or no. I know
25 it's late.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

IN RE:

JON CHRISTOPHER EVANS
AND JOINTLY ADMINISTERED
RELATED CASES

Case No. 09-03763-NPO

DEBTORS.

Chapter 7

G&B INVESTMENTS, INC.

PLAINTIFF

V.

ADV. PROC. NO. 10-00040-NPO

DEREK A. HENDERSON, TRUSTEE
FOR THE BANKRUPTCY ESTATE OF
JON CHRISTOPHER EVANS, ET AL.

DEFENDANTS

EXHIBITS

DEPOSITION OF CAROLYN WILLIAMS

Taken at the offices of
Adams and Reese,
111 Capitol Street, Suite 350,
Jackson, Mississippi,
on Thursday, November 18, 2010,
beginning at approximately 9:20 a.m.

APPEARANCES NOTED HEREIN

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